

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PREE MARTIN f/k/a PREE JETT,)
individually, and on behalf of all others)
similarly situated,)
Plaintiff,)
v.) Case No. 4:20-cv-01414-MTS
LVNV FUNDING, LLC,)
Defendant.)

**PLAINTIFFS' MOTION TO REMAND ACTION
TO THE CIRCUIT COURT OF ST. LOUIS COUNTY**

Come now Plaintiff Pree Martin f/k/a Pree Jett, by her undersigned counsel, pursuant to 18 U.S.C. § 1447, and for her motion to remand action to the Circuit Court of the St. Louis County, states:

1. Defendant LVNV Funding, LLC (“LVNV”) removed this case from the Circuit Court of St. Louis County, Missouri on October 1, 2020. [Doc. 1].
2. LVNV asserts the case may be removed under 28 U.S.C. 1332 because “complete diversity of citizenship exists, and the amount in controversy exceeds \$75,000.” [Doc. 1, ¶ 3].
3. This matter should be remanded to the Circuit Court of the St. Louis County as this Court lacks subject-matter jurisdiction as the amount in controversy does not exceed \$75,000. LVNV alleges “if Plaintiff obtains the class certification he is seeking, the amount in controversy will be in excess of \$75,000.” [Doc. 1, ¶ 8]. However, class action claims cannot be aggregated to reach the \$75,000 amount-in-controversy requirement. *Kessler v. Nat'l Enterprises, Inc.*, 347 F.3d 1076 (8th Cir. 2003).

4. In addition, the matter should be remanded as LVNV has failed to establish diversity of citizenship among the parties. LVNV alleges “Defendant is a Delaware limited liability company with its principal place of business in South Carolina . . .” [Doc. 1, ¶ 7]. However, the citizenship as an LLC is defined by the citizenship of its members. *GMAC Commercial Credit LLC v. Dillard Dep’t Stores, Inc.*, 357 F.3d 827, 828 (8th Cir. 2004). LVNV makes no allegations and offers no proof as to the citizenship of its members.

5. Because LVNV has failed to satisfy the \$75,000 amount-in-controversy requirement and failed to show the parties are of diverse citizenship, this action should properly be remanded to the Circuit Court of St. Louis County.

WHEREFORE Plaintiff Pree Martin f/k/a Pree Jett prays for an order of the Court remanding this case to the Circuit Court of the St. Louis County, Missouri, Twenty-First Judicial Circuit, and awarding such other relief that this Court deems just and proper.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 9th day of October, 2020, a true and correct copy of the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ David T. Butsch